IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04/10/2002

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THE HONOURABLE MR. JUSTICE P.K. MISRA

W.P.NO. 13011 OF 1999
and
WMP.NO.18633 OF 1999

S. Samaraj .. Petitioner

-Vs-

1. The State of Tamil Nadu
rep. by its Secretary,
Labour and Employment Department,
Fort St. George,
Chennai 600 009.

2. The Director of Employment and
Training, Chepauk,
Chennai 600 005.

3. The District Collector,
Tiruvanamalai Dsitrict,
Tiruvanamalai.

4. The District Employment Officer,
Tiruvanamalai District,
Tiruvanamalai. .. Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus as stated therein.

For Petitioner : Mr. Dhanabalan

For Respondents : Mrs.N.G. Kalaiselvi,
Special Govt. Pleader

:J U D G M E N T

The petitioner has prayed for quashing the order dated 7.7.1999 passed by the Distict Employment Officer, Tiruvanamalai and to give a direction to the Secretary to the Government, Labour and Employment Department to relax the age limit of the petitioner and further direct the District

Employment Officer, Tiruvanamalai, 4th respondent, to allot his original seniority in the employment exchange with effect from 13.10.1988.

2. Petitioner is the son of an Ex-serviceman and the certificate of Dependency of Ex-servicemen dated 12.10.1988 has been issued. As per G.O.Ms.No.1161, P& AR (Personnel-R) dated 22.11.1984, the petitioner is to be considered in the priority category under Group-III(i). The petitioner's name was registered in the Employment Exchange at Vellore on 13.10.1988 within the North Arcot District. Subsequently North Arcot District was bifurcated into two districts, namely North Arcot Ambedkar District and Tiruvanamalai Sambuvarayar District. The petitioner's name was continued in Tiruvanamalai district. During the year 1990, the petitioner's name had been sponsored, but he was not selected. On enquiry, the petitioner found that though the petitioner should be considered in priority category under Group III(i), being the dependent's son of Ex-serviceman, his priority was not taken into consideration. Subsequently, when these aspects were brought to the notice of the authorities concerned on the basis of the application of the petitioner, correction was made in Tiruvanamalai District Employment Exchange and the petitioner's priority was entered on 3.1.1996 . The petitioner's grievance is that due to no fault of him, his priority category was illegally ignored and correction has been made only on 3.1.1996 and, therefore, his seniority in the Employment Exchange should be considered from 13.10.1998, when his name was registered in the Employment Exchange in the undivided district. It is further submitted that since the petitioner has reached the upper age limit in the meantime, the age limit should be relaxed so far as his concerned. For the aforesaid purpose, he had made several representations to the employment authorities and the fourth respondent by the impugned order informed the petitioner that the power to relax the upper age limit vests only with the Government. Said order is also impugned in this writ petition.

3. A counter affidavit has been filed by the respondents wherein it is indicated that the petitioner's seniority in the employment exchange can be counted only from 3.1.1996 in the priority category, as correction was made only on that date. It has been further indicated that the employment exchange does not have any power to relax the upper age limit.

4. The facts and circumstances, as narrated above, clearly indicate that there was no fault on the petitioner and the mistake was of the District Employment Exchange. It is evident that the name of the petitioner was registered on the basis of the certificate of Dependency of Ex-servicemen dated 12.10.1988. However, due to some reason or other, the petitioner was not treated as coming within the priority category under Group-III(i) and only when the matter was brought to the notice of the appropriate authority, necessary correction was made on 3.1.1996. Since the petitioner's case could not be properly considered due to the mistake of the employment exchange, which is an agency of the State, interest of justice require that such mistake should be corrected. The name of the petitioner has been registered on 13.1 0.1988 and therefore, there is no logic as to why his seniority in the Employment Exchange in the new district, which had been carved out of the undivided North Arcot District, should not be counted from the date of original registration, that is to say 13.10.1988. Moreover, since the

petitioner’s case was not considered due to the mistake of the employment exchange by not sponsoring the name of the petitioner as coming within Group-III(i), in the interest of justice steps should be taken for relaxing the age limit so far as the petitioner is concerned.

5. Having regard to all these aspects, I allow the writ petition and direct the first respondent to relax the age limit of the petitioner and further direct the respondents that the petitioner’s name for employment should be sponsored in priority category under Group III(i) as per G.O.Ms.No.1161 P & AR (Personnel-R) dated 22.11.1984 and the seniority of the petitioner in the register of the Employment Exchange should be counted from 13.10.1988. There would be no order as to costs. Consequently, WMP.NO.18633 of 1999 is closed.

Index : Yes
Internet : Yes
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